

OFFICE OF THE ATTORNEY GENERAL



CHARLES A. GRADDICK
ATTORNEY GENERAL
STATE OF ALABAMA

ADMINISTRATIVE BUILDING
64 NORTH UNION STREET
MONTGOMERY, ALABAMA 36130
AREA (205) 834-5150

JAMES R. SOLOMON, JR.
DEPUTY ATTORNEY GENERAL

H. WARD McMILLAN, JR.
EXECUTIVE ASSISTANT
TO THE ATTORNEY GENERAL

WALTER S. TURNER
CHIEF ASSISTANT ATTORNEY GENERAL

JANIE NOBLES
EXECUTIVE ASSISTANT

OCT 18 1984

Honorable Patrick H. Tate
County Attorney
DeKalb County Commission
Room 304 Courthouse
Fort Payne, Alabama 35967

Counties - Highways, Roads, and
Bridges - States

DeKalb County Commission may enter into an agreement with Dade County, Georgia for paving a section of road in DeKalb County whereby the DeKalb County Commission will furnish the materials and Dade County will provide the equipment and manpower.

Dear Mr. Tate:

Reference is made to the request by the DeKalb County Commission regarding a joint venture by DeKalb County and Dade County, Georgia on a road which crosses the state line.

The following facts are summarized from the opinion request and a telephone conversation with you:

The section of the road in question begins in Georgia, runs into Alabama and then turns back into Georgia. This section is one-half mile in length. The unpaved portion of this road is in Alabama and is approximately fifty (50) feet from the state line. Under the arrangement in question, DeKalb County will provide the paving materials and Dade County, Georgia will furnish the manpower and equipment to complete this project. The DeKalb County Commission wishes to know if it can legally enter into this arrangement for the paving of the section of road in question.

Honorable Patrick H. Tate
County Attorney
DeKalb County Commission
Page Two

The question is to be answered in the affirmative. Code of Alabama 1975, Section 23-1-80 gives county commissions general superintendence over the roads in their county so as to render travel over the roads safe and convenient as practicable. The county commissions are authorized to enter into such contracts as may be necessary or advisable to build, construct and maintain a good system of public roads in their county.

In an opinion of the Attorney General to the Honorable James L. Martin, City Attorney for Eufaula, dated February 15, 1977, an agreement between the City of Eufaula and Georgetown, Georgia was held to be legal. The provision of the United States Constitution forbidding contracts or agreements between states was discussed. Quoting from the opinion:

"In considering the Constitutional provision concerning interstate agreements, courts have concluded that this provision does not apply to every possible agreement between two states, but only to an agreement which might tend to alter the political power of the states affected, and thus interfere with the supremacy of the United States."

The Attorney General is of the opinion that the agreement considered herein between DeKalb County and Dade County, Georgia likewise would not violate the above-discussed provision of the Constitution of the United States.

Furthermore, as indicated in your request, no portion of the road to be paved is in the State of Georgia. Thus, the providing of paving materials for the road would not be beyond the authority of the County Commission. See the Opinion of the Attorney General to Honorable James A. Avery, Attorney for Chambers County, dated June 26, 1974, in which it was determined Chambers County could not maintain a portion of road in the State of Georgia.

Honorable Patrick H. Tate
County Attorney
DeKalb County Commission
Page Three

In answer to your question, the Attorney General is of the opinion that the DeKalb County Commission may enter into an agreement with Dade County, Georgia for paving a section of road in DeKalb County whereby the DeKalb County Commission will furnish the materials and Dade County will provide the equipment and manpower.

I hope that your question has been adequately answered.

If our office can be of further assistance, please do not hesitate to contact us.

Sincerely,

CHARLES A. GRADDICK
Attorney General

By:



LYNDA K. OSWALD
Assistant Attorney General

LKO/dn